

### **REMARKS**

This Amendment is submitted in response to the Office Action mailed December 30, 2005. In the Office Action, the Drawings were deemed acceptable, Claims 1-4, 10, 16-19 and 21 were rejected as being anticipated by US Patent No. 3,752,474 to Macabet et al. ("Macabet"), Claim 1 was rejected as being anticipated by US Patent No. 5,433,688 to Davies ("Davies"), Claim 20 was rejected as being unpatentable over Macabet in view of US Patent No. 6,258,011 B1 to Wolfe ("Wolfe"), Claims 14 and 15 was rejected as being unpatentable over Macabet in view of US Patent No. 4,060,240 to Dunston ("Dunston"), and Claims 1-7, 16, 18, and 19 were rejected as being unpatentable over US Patent No. 5,352,172 to Suzuki ("Suzuki") in view of US Patent No. 5,217,029 to Shields ("Shields"). The previous rejection of Claims 1 and 10-13 were rejected as being unpatentable over BODYBUILDER'S DISCOUNT OUTLET ("BODYBUILDER'S") was withdrawn. Claims 11-13 were rejected as being dependent upon a rejected base claim, and it was indicated that they would be allowable if rewritten to include the limitations of the base and any intervening claim.

In this amendment, Claims 1 and 12 have been amended; Claims 10 and 11, and the previously withdrawn Claims 8, 9, and 22-35, have been canceled. While the Applicant stands by the Arguments presented in previous Office Actions, these amendments are being presented in order to allow this application to proceed to issuance. In addition, these amendments are made without prejudice to pursuing this subject matter in continuing applications. Applicant respectfully submits that no new matter has been entered by any of these amendments. **Claims 1-7 and 12-21 are pending.**

For the reasons set forth below, Applicant respectfully submits that, as amended, all remaining claims in this application are patentably distinct over the prior art of record. Reconsideration and allowance of all pending claims in the application are respectfully solicited.

### **ALLOWABLE SUBJECT MATTER**

Claims 11-13 were rejected as being dependent upon a rejected base claim, and the Examiner has indicated that these Claims would be allowable if rewritten to include the limitations of the base and any intervening claim. In response, Claims 1 and 12 have been amended and Claims 10 and 11 have been canceled. Applicant respectfully requests that objection to Claims 11-13 be withdrawn.

The limitations of Claim 11 and the base claim (Claim 1) and intervening claims (Claim 10)

are now included in Claim 1, as amended, and Claims 10 and 11 have been canceled. Applicant therefore believes that Claim 1, as amended, is in condition for allowance. Claim 12, as amended to depend on Claim 1, as amended, and Claim 13, which depends on Claim 12, also include the limitations of the base claim and any intervening claims. Applicant therefore believes that Claim 12, as amended, and Claim 13 are also in condition for allowance, and respectfully submits that the objections to Claims 11-13 be withdrawn and that Claims 1, 12, and 13 be allowed.

### **REJECTION TO THE CLAIMS**

#### **Rejection under 35 U.S.C. §102**

Claims 1-4, 10, 16-19 and 21 were rejected as being anticipated by Macabet and Claim 1 was rejected as being anticipated by Davies. In response, Claim 1 has been amended and Claim 10 has been canceled. Applicant respectfully submits that requests that the rejection to Claims 1-4, 16-19 and 21 under §102 be withdrawn.

Claim 1, as amended, includes the limitations of the original Claims 1, 10, and 11. As such, Claim 1, as amended, is patentable over the cited references as indicated by the Examiner. Claims 2-4, 16-19 and 21 each include the limitations of Claim 1, as amended, and as such are allowable for at least the same reasons. The Applicant thus respectfully submits that Claims 1-4, 16-19 and 21, as amended, is not anticipated by either Macabet or Clarke, and respectfully requests that the Examiner withdraw the rejection of Claims 1-4, 16-19 and 21, as amended, under §102.

Claim 10 has been canceled, and thus the rejection of Claim 10 is moot.

#### **Rejection under 35 U.S.C. §103**

Claim 20 was rejected as being unpatentable over Macabet in view of Wolfe, Claims 14 and 15 was rejected as being unpatentable over Macabet in view of Dunston, and Claims 1-7, 16, 18, and 19 were rejected as being unpatentable over Suzuki in view of Shields. In response, Claim 1 has been amended. Applicant respectfully requests that the rejection to Claims 1-7, 14-16, and 18-20 under §103 be withdrawn.

Claim 1, as amended, includes the limitations of the original Claims 1, 10, and 11. As such, Claim 1, as amended, is patentable over the cited references as indicated by the Examiner. Claims 1-7, 14-16, and 18-20 each depend on Claim 1, as amended, and as such are allowable for at least the same reasons. The Applicant respectfully submits that, with the present amendment, Claim 20 is

Appl'n. No. 10/714,388  
Amdt. dated March 15, 2006  
Reply to Office Action of December 30, 2005

patentable over Macabet in view of Wolfe, Claims 14 and 15 are patentable over Macabet in view of Dunston, and that Claims 1-7, 16, 18, and 19 are patentable over Suzuki in view of Shields.


Applicant respectfully requests that the Examiner withdraw the rejection of Claims 1-7, 16, 18, and 19, as amended, under §103.

Applicant respectfully submits that the application is in condition for allowance and action to that end is respectfully solicited. If the Examiner should feel that a telephone interview would be productive in resolving any issues in the case, please telephone the undersigned at the number listed below.

Respectfully submitted,

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